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DEC 12 2007

December 12, 2007

VIA FACSIMILE (212) 805-0184

Honorable Harold Baer, Jr.
United States District Judge
United States District Court
United States Courthouse
500 Pearl Street
New York, NY 10007

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DOCUMENT
ELECTRONICALLY FILED
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DATE FILED: 12/13/07

Re: **Pape et al. v. Wappingers Central School**
District, et al., 07cv8828

Dear Judge Baer, Jr.:

I am the attorney of record for the plaintiffs in the above-referenced matter. I am requesting an adjournment of the Pre-Trial Conference (PTC) scheduled for 4:15 p.m. on Thursday, December 27, 2007. I need the adjournment because I have been prevented from making corrections of errors in plaintiffs' original complaint by a virus in the computer which I am using to type said complaint.

I have not served defendants with copies of the original complaint because of factual and legal errors that would severely prejudice the parties and harm the plaintiffs' case.

In addition, my legal assistant and I did not realize that most of the cases upon which we based plaintiffs' allegations in the original complaint were no longer the standard used by the Second Circuit in cases involving discrimination against disabled individuals. While the original causes of action remain the same, our legal research has taught us that we must drop the State

Honorable Harold Baer, Jr.
Page 2

December 12, 2007

Education Department from the suit because the Second Circuit now holds that the state cannot be sued for monetary and punitive damages under Section 504 of the Rehabilitation Act. Plaintiffs seek monetary relief in this action.

I believe that the Second Circuit still permits that suits can be maintained against the Board of Education, the School District's supervisors, in their individual capacities under Section 504 and the ADA.

Hence, plaintiffs' complaint had to be amended to reflect correct allegations under current case law in a highly complicated matter.

The virus in my computer has been completely removed now. So I am almost ready to serve the amended complaint upon the defendants before December 24, 2007.

Thank you for your consideration in this matter.

Respectfully yours,


Ben M. Arai

*PTC rescheduled for 2/7/08 at 3:15pm.
Please serve Defendants and notify
them of PTC date and time.*

 12/13/07

Endorsement:

PTC rescheduled for 2/7/08 at 3:15 P.M. Please serve defendants and notify them of PTC date and time.